

1 **FEDERAL ELECTION COMMISSION**

2
3 **FACTUAL AND LEGAL ANALYSIS**

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5 **RESPONDENTS:** Mackenzie for Congress and MUR 7281
6 Joel Jukus in his official capacity as treasurer,
7 Citizens for Ryan Mackenzie and
8 Lisa Walter in her official capacity as treasurer,
9 and Ryan E. Mackenzie
10

11 This matter was generated by a complaint filed with the Federal Election Commission.

12 The Complaint alleges that Citizens for Ryan Mackenzie and Lisa Walter, in her official capacity
13 as treasurer (the "State Committee") paid all expenses for an event on September 21, 2017,¹
14 during which Ryan E. Mackenzie began his federal campaign (the "Campaign Event").² The
15 Complaint asserts that the payments constitute in-kind soft money contributions from the State
16 Committee to Mackenzie's federal campaign, and the State Committee should register with the
17 Commission as a federal political committee.³ Mackenzie for Congress and Joel Jukus, in his
18 official capacity as treasurer (the "Committee") acknowledges that Mackenzie held the
19 Campaign Event in support of his federal candidacy, and some costs were originally paid by, or
20 invoiced to, the State Committee.⁴ Respondents explain that the event was originally planned in
21 August 2017 as a State Committee fundraiser, but in early September the incumbent U.S. House
22 member unexpectedly retired, and Mackenzie decided to run for that seat and use this already-

¹ The Complaint attaches materials from Mackenzie's state campaign, including a yard sign and two brochures, which were allegedly used in connection with the Campaign Event. Compl. Attachments (Dec. 4, 2017).

² Compl. at 1. The Complaint attaches a copy of the invitation to the Campaign Event, as well as pictures from the event. Compl. Attach.at 1.

³ *Id.* at 1-2.

⁴ Resp. at 1-2 (Jan. 10, 2018).

1 planned event to announce his federal candidacy.⁵ Respondents assert that the invoice for the
2 invitation was later reissued to the Committee, and the venue—at the Committee's request—
3 refunded the State Committee's payment after Mackenzie paid the costs himself.⁶ Respondents
4 argue that under these circumstances, the complaint should be dismissed because the error was
5 "inadvertent and innocent," and Respondents took quick corrective action, including refunding
6 all non-federal funds.⁷ Respondents assert that the total amount involved is \$4,754.69.⁸ For the
7 reasons discussed below, the Commission exercises its prosecutorial discretion and dismisses
8 this matter pursuant to *Heckler v. Chaney*.⁹

9 The Act prohibits federal candidates and entities directly or indirectly established,
10 financed, maintained, or controlled by or acting on behalf of those candidates from transferring,
11 soliciting, receiving, directing, or spending funds in connection with an election for federal office
12 unless the funds are subject to the limits, prohibitions, and reporting requirements of the Act.¹⁰
13 Moreover, Commission regulations prohibit the transfer of funds or assets from a candidate's
14 non-federal campaign committee to his or her federal campaign committee.¹¹

⁵ *Id.* at 1.

⁶ The Committee appears to have reimbursed the candidate for this expense. Resp. at 2; October 2017 Quarterly Report at 41, <http://docquery.fec.gov/cgi-bin/forms/C00655175/1185458/>.

⁷ Resp. at 2.

⁸ *Id.*

⁹ 470 U.S. 821 (1985).

¹⁰ 52 U.S.C. § 30125(e)(1). Pennsylvania law contains no limit on the amount of an individual's contributions, contrary to the Act's provisions. See Penn. Dep't of State, Campaign Finance Reporting Law: Frequently Asked Questions at 2, available at <http://www.dos.pa.gov/VotingElections/Candidates/Committees/CampaignFinance/Documents/Law-CF/law.pdf>.

¹¹ 11 C.F.R. § 110.3(d).

1 Respondents concede that the State Committee was initially invoiced for the invitations
2 to the Campaign Event,¹² and the State Committee paid for the venue. Regarding the allegations
3 that the State Committee paid for promotional materials at the Campaign Event, it is possible that
4 some state campaign materials were used or distributed at the Campaign Event, but it is likely
5 their value was minimal.¹³ Given the specific factual circumstances, the relatively modest
6 amounts at issue, and quick remedial actions taken by the Committee, the Commission dismisses
7 the allegations consistent with the Commission's prosecutorial discretion to determine the proper
8 ordering of its priorities and use of agency resources. *Heckler v. Chaney*, 470 U.S. 821, 831-32
9 (1985).

¹² The Commission has no information indicating whether the State Committee paid this invoice, and the Response is not clear—it refers to the invitations as one of the “payments made by the State House Committee” but later notes that the expense “was initially to be paid for by the State House Committee.” Resp. at 2.

¹³ The Commission has dismissed similar allegations concerning federal campaigns making incidental use of promotional materials prepared for a candidate's state campaign. See Factual & Legal Analysis at 6-7, MUR 6785 (Kwasman for Congress, *et al.*) (dismissing allegation that a federal campaign used state campaign assets where “the only apparent potential use of state campaign resources was the signs referring to Kwasman as a state representative, the value of which is likely minimal”); Factual & Legal Analysis at 9, MUR 6773 (Brian Nestande, *et al.*) (dismissing allegation that a federal campaign website displayed the candidate's state campaign mailer, which made no reference to the candidate's federal campaign because “the value of this transferred asset . . . would likely be *de minimis*”).